

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

KATHY ANN HENDRICKSON,

Defendant/Movant.

CR 21-32-M-DWM

ORDER

On October 10, 2023, Defendant Kathy Ann Hendrickson filed a pro se motion to vacate her conviction and sentence under 28 U.S.C. § 2255. (Doc. 93.) Counsel was subsequently appointed, (Doc. 110), and an amended motion filed on July 9, 2024, (Doc. 113). At this juncture, it is appropriate to have the United States respond to Hendrickson's amended motion.

Accordingly, IT IS ORDERED that:

1. On or before September 15, 2024, the United States shall file an answer to Hendrickson's amended § 2255 motion. The answer shall respond to the allegations on the merits and shall raise and brief all procedural defenses the United States wishes the Court to consider. Defenses not raised will be deemed waived. The United States may file a motion to dismiss if it believes there are

procedural grounds for dismissal, but it may not file a motion to dismiss in lieu of an answer.

2. As of the effective date of this Order, counsel Michael Sherwood's and Matthew McKeon's duty of confidentiality to Hendrickson is waived for the sole purpose of formal proceedings in this case. Provided Sherwood and McKeon comply with the terms of this Order, there will be no legal or ethical foundation for any disciplinary or tort complaint against either attorney for breaching the duty of confidentiality in these proceedings.

3. Either party may depose Sherwood, McKeon, and/or Hendrickson and issue subpoenas duces tecum without seeking further leave under Rule 6(a) of the § 2255 Rules or Fed. R. Civ. P. 30(a)(2)(B). Either party may file additional materials for the Court's consideration pursuant to Rule 7 of the § 2255 Rules.

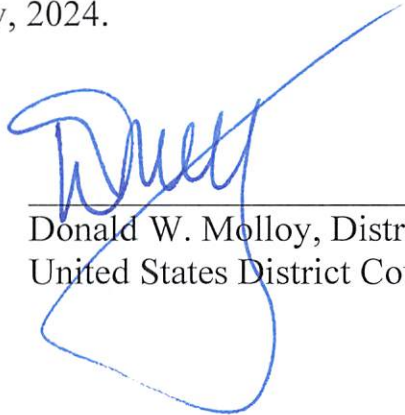
4. All discovery conducted by the parties, including defense counsel's file and any depositions, is deemed confidential. Sherwood and McKeon may discuss the case with either party only in the presence of counsel for the opposing party. Materials and information obtained in these proceedings may be used only by Hendrickson and the United States Attorney's Office and only for the purposes of any formal proceedings incident to litigating the claims presented in Hendrickson's amended § 2255 motion. Disclosure of the material or any

information contained therein may not be made to any other person or agency without an Order from this Court.

5. This Order shall continue in effect after the conclusion of the § 2255 proceedings and specifically shall apply in the event of a retrial of all or any portion of Hendrickson's criminal case or any trial of any charge against Hendrickson in any court.

6. Hendrickson may file a reply within 21 days of the answer's filing.

DATED this 16th day of July, 2024.



Donald W. Molloy, District Judge
United States District Court